

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

J.C.D., INC. t/a J.L. TERREL'S)
)
and)
)
TERREL'S PRO FINISHES, INC.,)
	Civil Action No. 02-CV-2645
Plaintiffs)
)
v.)
)
SHERWIN-WILLIAMS AUTOMOTIVE)
FINISHES CORP.,)
)
Defendant.)

DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS

Pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, defendant Sherwin-Williams Automotive Finishes Corp. moves this Court for judgment on the pleadings in its favor. In support of its motion, Sherwin-Williams submits the accompanying memorandum of law and states:

1. Plaintiffs, J.C.D., Inc. and Terrel's Pro Finishes, Inc. (together, "Pro Finishes"), attempt to state claims for relief against Sherwin-Williams arising from the termination of a Direct Jobber Agreement. That agreement authorized Pro Finishes to market auto-body paint distributed by Sherwin-Williams.
2. In multiple counts, Pro Finishes complains that Sherwin-Williams terminated the Jobber Agreement and sold paint directly to Pro Finishes' customers.
3. The Jobber Agreement, however, authorizes both parties to terminate the agreement without cause at any time on 30-days notice. *See* Jobber Agreement ¶ 5.1 (attached to Complaint as Exhibit A). The Jobber Agreement also authorizes Sherwin-Williams to sell products directly to Pro Finishes' customers. *Id.* ¶ 4.2.

4. Because the Jobber Agreement authorizes the conduct about which Pro Finishes now complains, Sherwin-Williams is entitled to judgment on the pleadings.

Sherwin-Williams respectfully requests that this Court enter judgment on the pleadings in its favor. A proposed order is attached.

Respectfully submitted,

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 SHERWIN-WILLIAMS AUTOMOTIVE))
 FINISHES CORP.,))
 Defendant.))

ORDER

AND NOW, this _____ day of _____, 2002, upon consideration of Defendant's Motion for Judgment on the Pleadings and Plaintiffs' opposition thereto, if any, it is hereby ORDERED that Defendant's Motion is GRANTED. Plaintiffs' complaint is DISMISSED with prejudice and judgment is entered for defendant.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant's Motion for Judgment on the Pleadings along with Supporting Memorandum was served this _____ day of November, 2002, via First Class U.S. Mail, upon counsel of record for plaintiffs, as follows:

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